**IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL**

**Writ Petition No. 4758 of 2001 (S/S)**

Khim Singh Bisht,
S/o Sri Amar Singh Bisht,
R/o Kathaitbara Geeta Bhawan,
Bageshwar,
Present posted as Letter Bearer, DRDA,
Bageshwar. …….. Petitioner

Versus

1. State of Uttaranchal
through Principal Secretary,
Rural Development, Govt. of Uttaranchal,
Dehradun.
2. Chief Development Officer / Chairman,
District Rural Development Agency,
Bageshwar.
3. Project Director,
District Rural Development Agency,
Bageshwar. …… Respondent

Mr. K.N. Joshi, Advocate for the petitioner.
Mr. J.P. Joshi, Addl. Chief Standing Counsel for the respondents.

**Coram: Hon'ble Cyriac Joseph, C.J.**
**Hon. M.M. Ghildiyal, J.**

**ORAL JUDGMENT: (Per Hon'ble the Chief Justice)**

1. The petitioner was appointed as a Class IV employee in the District Rural Development Agency (DRDA), Almora as per order dated 10.07.1995. The petitioner joined duty in DRDA, Almora on 10.07.1995 itself. After formation of the district of Bageshwar on 15.09.1997, the petitioner was accommodated in DRDA, Bageshwar and he joined at Bhageshwar on 12.11.1998. Since then he has been continuously working as Class IV employee in DRDA, Bageshwar. According to the petitioner, as per the guidelines issued by the Government of U.P. in Annexure 2 Order dated 17.03.1994, appointment to the post of Class III has to be made by direct recruitment and promotion. 85% of the vacancies are to be filled-up by direct recruitment and 15% of the vacancies are to be filled-up by promotion from Class IV employees. It is contended that the

petitioner is the senior most Class IV employee in the DRDA of Bageshwar District and therefore, he is entitled to be considered for promotion to Class III against the vacancies reserved for promotion. The grievance of the petitioner is that inspite of representation made by him requesting for promotion, no favorable order has been passed by the respondents. Therefore, the petitioner has filed this writ petition praying for a direction to the respondents to consider the case of the petitioner for promotion to Class III post of Junior Clerk.

2. A counter affidavit has been filed on behalf of respondents No. 1 to 3. The counter affidavit is filed in Hindi. Learned Addl. Chief Standing Counsel explained the position in English. According to the Addl. Chief Standing Counsel, it is stated in the counter affidavit that in the absence of special rules or bylaws framed for the DRDA, the general rules applicable to the State Government service are applicable for making appointments and promotions in the DRDA. Learned Addl. Chief Standing Counsel does not dispute the claim of the petitioner that appointment to the post of Class III has to be made by direct recruitment and promotion in the ratio of 85:15. It is also not disputed that promotions to the post of Class III in the DRDA of a particular district have to be made from amongst the Class IV employees of the DRDA of that district. However, the contention in the counter affidavit is that there is no regular vacancy available in Class III post and that the petitioner is not eligible to be considered for promotion for want of minimum required service of five years as Class IV employee.

3. The counter affidavit was filed on 08.11.2001. It is possible that vacancies might have arisen in the category of Class III employees during the last more than three years. The petitioner was appointed as Class IV employee on 10.07.1995 in Almora District and he joined duty in Bageshwar District on 12.11.1998. Even if only his service as Class IV employee in Bageshwar District is taken into account, the petitioner has already completed five years of service as

Class IV employee and has become eligible for consideration for promotion to Class III. In such circumstances, the petitioner is justified in seeking a direction to the respondents to consider his case for promotion to Class III if any vacancy is available now.

4. Therefore, the writ petition is disposed of with a direction to the respondents to consider the case of the petitioner for promotion to a Class III post in accordance with the rules applicable to such promotions and pass orders as expeditiously as possible and at any rate, within a period of one month from the date of receipt of a copy of this judgment. All the interim orders passed in this writ petition stand vacated.

5. The petitioner may produce a copy of this judgment before the respondents for information and compliance.

**(M.M. Ghildiyal, J.)** **(Cyriac Joseph, C.J.)**
**20.05.2005** **20.05.2005**

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